



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Anu Natarajan, Vice Mayor
Bob Wieckowski
Bill Harrison
Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Michael Rich, Human Resources Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

**NOTICE AND AGENDA OF SPECIAL MEETING
CLOSED SESSION
CITY OF FREMONT
and
THE REDEVELOPMENT AGENCY**

DATE: Tuesday, June 23, 2009

TIME: 5:30 p.m.

LOCATION: Fremont Room, 3300 Capitol Avenue, Fremont

The City will convene a special meeting. It is anticipated the City will immediately adjourn the meeting to a closed session to confer with and receive advice from its attorney regarding upcoming employee negotiations, as follows:

Council:

- 1) **CONFERENCE WITH LABOR NEGOTIATOR:** The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Melissa Dile, Deputy City Manager; Michael Rich, Human Resources Director; Harvey Levine, City Attorney; Designated Representatives Diana Doughtie and Fran Buchanan as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Association of Management Employees
Fremont Association of City Employees
Operating Engineers
Teamsters Local 856
Fremont Police Association
Professional Engineers and Technicians Association

- 2) **CONFERENCE WITH LABOR NEGOTIATOR:** The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Melissa Dile, Deputy City Manager; Michael Rich, Human Resources Director; Harvey Levine, City Attorney; Designated Representatives Diana Doughtie and Fran Buchanan as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Fire Fighters
Fremont Fire Fighters Battalion Chiefs

The City/Agency will convene a special meeting. It is anticipated the City/Agency will immediately adjourn the meeting to a closed session for granting authority to its real property negotiators regarding price and terms of payment, as follows:

Council:

- 3) **CONFERENCE WITH REAL PROPERTY NEGOTIATORS:** This Closed Session is authorized by Government Code Section 54956.8 at the time and place stated above to confer with and grant authority to its real property negotiators regarding:

Owner	Street Address	APN	Total (Square Feet)
Walton CWCA Scott Creek 28, LLC	431 Kato Terrace 472 Kato Terrace	519-1010-136-00 519-1010-140-00	72,883
Bedford Property Inv. / LBA Realty / WBP	48850 Kato Road 48790 Milmont Drive	519-1010-078-03 519-1010-080-01	56,715
UPRR	UPRR Corridor	519-1010-020-00	15,152
Kato Associates	48815 Kato Road	519-1010-011-29	49,453
Warm Springs Village Partners, LLC	Kato Road	519-1731-003-00	1,341
Robson Homes LLC	48835 Kato Road	519-1738-003-00 519-1738-135-00 519-1738-023-00 519-1738-004-00 519-1738-131-00 519-1738-132-00 519-1738-133-00 519-1738-134-00	20,267
Castilleja Owners Association	48835 Kato Road	519-1738-001-00	5,437

The Brown Act requires the negotiators (even when not attending the meeting) to be listed in this notice. Those negotiators are:

For the City – (which will be represented at the meeting);Randy Sabado, Real Property Manager;
Jim Pierson, Transportation & Operations Director and Harvey Levine, City Attorney

The Agency will convene a special meeting. It is anticipated the Agency will immediately adjourn the meeting to a closed session for granting authority to its real property negotiators regarding price and terms of payment, as follows:

Agency:

- 4) **CONFERENCE WITH REAL PROPERTY NEGOTIATORS:** This Closed Session is authorized by Government Code Section 54956.8 at the time and place stated above to confer with and grant authority to its real property negotiators regarding:

APN# 501-0536-017-02 and 501-0536-018-02, approximately 27,499 sq. ft., located at 37405-37415 Fremont Boulevard and 4036 Beloveria Court.

The Brown Act requires the negotiators (even when not attending the meeting) to be listed in this notice. Those negotiators are:

For the City—(which will be represented at the meeting);, Elisa Tierney, Redevelopment Director; Randy Sabado, Real Property Manager and Harvey Levine, Agency Attorney

This Special Meeting is being called by Mayor/Chairman Wasserman.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
JUNE 23, 2009
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – None.*
- 2.3 *Second Reading and Adoption of an Ordinance of the City of Fremont Cancelling the Double Wood Golf Course Development Agreement Approved by Ordinance 2482*

RECOMMENDATION: Adopt ordinance.

- 2.4 **PURCHASE OF FLEET HEAVY EQUIPMENT**
*Authorization for the City Manager or Designee to Execute Purchase Order
Contracts for the Purchase of Nine Pieces of Fleet Heavy Equipment*

Contact Person:

<i>Name:</i>	<i>Mark Collins</i>	<i>Frank Morgan</i>
<i>Title:</i>	<i>Fleet Maintenance Supervisor</i>	<i>Deputy Director of Maintenance Services</i>
<i>Dept.:</i>	<i>Transportation & Operations</i>	<i>Transportation & Operations</i>
<i>Phone:</i>	<i>510-979-5739</i>	<i>510-979-5701</i>
<i>E-Mail:</i>	<i>mcollins@fremont.gov</i>	<i>fmorgan@fremont.gov</i>

RECOMMENDATIONS:

1. *Authorize the City Manager or designee to execute a purchase order with Municipal Maintenance Equipment in an amount not to exceed \$543,840 for the purchase of two CNG sweepers;*
2. *Authorize the City Manager or designee to execute a purchase order with Altec Industries, Inc. in an amount not to exceed \$311,785 for the purchase of two aerial bucket trucks by piggybacking onto the City of Roseville's Request for Quotation, Number 1880;*
3. *Authorize the City Manager or designee to execute a purchase order with Golden Gate Truck Center in an amount not to exceed \$264,766 for the purchase of two dump trucks by piggybacking onto Alameda County Water District's Request for Quotations, Number 2945; and*
4. *Authorize the City Manager or designee to execute a purchase order with Arbor-Quip in an amount not to exceed \$133,711 for the purchase of three brush chipper machines by piggybacking onto the Butte County Invitation for Bids, Number 17-09.*

2.5 APPROPRIATION OF FUNDS FOR THE COSTS ASSOCIATED WITH THE INSTALLATION OF THE FIRE STATION NO. 6 ART SCULPTURE

Approval to Appropriate Funds From Fire Bond CIP Reserve Fund 501PWC8526 to Fire Station No. 6 501PWC8531 for the Costs Associated with the Installation of the Fire Station No. 6 Art Sculpture

Contact Person:

Name:	<i>Martha S. Martinez</i>	<i>Robert Kalkbrenner</i>
Title:	<i>Project Manager</i>	<i>Civic Facilities Development Manager</i>
Dept.:	<i>Community Development</i>	<i>Community Development</i>
Phone:	<i>510-494-4727</i>	<i>510-494-4428</i>
E-Mail:	<i>mamartinez@fremont.gov</i>	<i>rkalkbrenner@fremont.gov</i>

RECOMMENDATION: *Appropriate \$47,200 from Fund 501PWC8526 (Fire Bond CIP Reserve) to 501PWC8531 (Fire Station No. 6) for the costs associated with the installation of the Fire Station No. 6 art sculpture.*

2.6 VIDEO SERVICE PROVIDERS ORDINANCE

Introduce an Ordinance Adding Chapter 7.5 to Title V of the Fremont Municipal Code Regarding a Support Fee for Public, Educational, and Governmental (PEG) Channel Facilities and Special Provisions Applicable to State Video Franchise Holders

Contact Person:

Name:	<i>Marilyn J. Crane</i>
Title:	<i>Director</i>
Dept.:	<i>Information Technology Services</i>
Phone:	<i>510-494-4802</i>
E-Mail:	<i>mcrane@fremont.gov</i>

RECOMMENDATION: Introduce an ordinance adding Chapter 7.5 (Video Service Providers) to Title V (Businesses, Professions and Trades) of the Fremont Municipal Code regarding a Support Fee for Public, Educational, and Government (PEG) Channel Facilities and Special Provisions Applicable to State Video Franchise Holders.

2.7 Timing of Collection of Impact Fees—Citywide

Introduce Ordinance Amending Fremont Municipal Code to Allow Collection of Development Impact Fees After Building Permit Issuance but Prior to Any Occupancy and to Establish that the Fee Amount to be Paid is the Amount in Effect at the Time of Building Permit Issuance

Contact Person:

<i>Name:</i>	<i>Joel Pullen/Wayne Morris</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Planner II/Senior Planner</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4436</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>jpullen@fremont.gov</i>	<i>jschwob@fremont.gov</i>

RECOMMENDATION: Introduce an Ordinance amending the Fremont Municipal Code Sections to allow collection of development impact fees after building permit issuance, but prior to the date of the final inspection, certificate of occupancy, or for a period of eighteen months after the date of permit issuance, whichever occurs first; and to establish that the fee amount to be paid is the amount in effect at the time of building permit issuance.

2.8 ORDINANCE AMENDMENT REGARDING PROHIBITIONS ON FORMER CITY OFFICIALS

Introduce an Ordinance Amending the Fremont Municipal Code Regarding Prohibitions on Former City Officials for Consistency with State Law

Contact Persons:

<i>Name:</i>	<i>Prasanna Rasiah</i>	<i>Harvey Levine</i>
<i>Title:</i>	<i>Deputy City Attorney</i>	<i>City Attorney</i>
<i>Dept.:</i>	<i>City Attorney's Office</i>	<i>City Attorney's Office</i>
<i>Phone:</i>	<i>510-284-4030</i>	<i>510-284-4030</i>
<i>E-Mail:</i>	<i>prasiah@fremont.gov</i>	<i>hlevine@fremont.gov</i>

RECOMMENDATION: Introduce an ordinance amending Fremont Municipal Code Title II, Chapter 10, commencing at Section 2-10000, to make specified revisions regarding prohibitions on former city officials in order to remain consistent with State law.

2.9 ALAMEDA COUNTY BEHAVIORAL HEALTH CARE SERVICES CONTRACT AMENDMENT FOR FRC MENTAL HEALTH SERVICES

Authorization for the City Manager to Execute FY 2008/09 Contract Amendment with Alameda County for Mental Health Services at the Fremont Family Resource Center and Appropriate Additional Funding

Contact Person:

<i>Name:</i>	<i>Arquimides Caldera</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Deputy Director</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2056</i>	<i>510-574-2052</i>
<i>E-Mail:</i>	<i>acaldera@fremont.gov</i>	<i>sshenfil@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or his designee to execute a contract amendment with Alameda County Behavioral Health Care Services for reimbursement of mental health services, in the amount of \$42,467, for a total contract amount of \$234,076 and appropriate an additional \$42,467 to account 1725338, and to execute any other implementing documents.

2.10 GRANT AGREEMENT WITH THE ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

Adopt a Resolution Authorizing the City Manager to Execute a Grant Funding Agreement with the Alameda County Transportation Improvement Authority for the Tri-City Senior Walk Clubs Program, Committing the Necessary Matching Measure B Funds and Stating the City's Assurance to Complete the Project

Contact Person:

<i>Name:</i>	<i>Shawn Fong</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Paratransit Program Manager</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2033</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>sfong@fremont.gov</i>	<i>sshenfil@fremont.gov</i>

RECOMMENDATIONS:

- 1. Adopt a resolution authorizing the City Manager or designee to execute a grant funding agreement with ACTIA for the Tri-City Senior Walk Clubs program, committing the necessary matching funds and stating the City's assurance that it will complete the project.*
- 2. Appropriate grant funding of \$52,000 to ACTA/ACTIA grants, Fund 504, and local match of \$15,000 to Measure B Bicycle and Pedestrian Fund 509.*

2.11 AUTHORIZATION TO ENTER INTO AGREEMENTS TO COMPLETE THE PURCHASE OF MOBILE RADIOS

Authorization for Alameda County and the City of Pleasanton to Act on Behalf of the City of Fremont to Purchase Mobile Radios as Part of an Assistance to Firefighters Grant and the Citywide Communication Upgrade Project

Contact Person:

<i>Name:</i>	<i>Kelly Sessions</i>	<i>Bruce Martin</i>
<i>Title:</i>	<i>Business Manager</i>	<i>Fire Chief</i>
<i>Dept.:</i>	<i>Fire</i>	<i>Fire</i>
<i>Phone:</i>	<i>510-494-4281</i>	<i>510-494-4200</i>
<i>E-Mail:</i>	<i>ksessions@fremont.gov</i>	<i>bmartin@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or designee to enter into an agreement to allow Alameda County to act as the purchasing agent and the City of Pleasanton to act as the financial administrator to complete the purchase of 15 mobile radios on behalf of the City of Fremont as part of the Assistance to Firefighters Grant and the Citywide Communication Upgrade Project.

3. CEREMONIAL ITEMS

- 3.1 Resolution: Honoring Jesus Valenzuela for Reporting a Suspicious Circumstance Resulting in Capture of a Suspect
- 3.2 Resolution: Honoring Park Ranger Sandy Ferreira for 20 Years of Service
- 3.3 Resolution: Honoring Street Field Supervisor Jeff Edwards for 20 Years of Service
- 3.4 Resolution: Honoring Building Maintenance Field Supervisor Bob Bohannon for 20 Years of Service
- 3.5 Resolution: Honoring Environmental Compliance Manager Kathleen Shonk for 20 Years of Service
- 3.6 Resolution: Honoring Building Trades Worker III Rene Castillo for 25 Years of Service

4. PUBLIC COMMUNICATIONS

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

5.1 RECREATION COMMISSION REFERRAL: RECOMMENDED CHANGES TO THE ART IN PUBLIC PLACES PROGRAM POLICY

Recreation Commission Referral Concerning Recommended Changes to the Art in Public Places Program Policy

Contact Person:

Name:	Amy Rakley, AICP	Annabell Holland
Title:	Park Planning Manager	Parks and Recreation Director
Dept.:	Parks and Recreation	Parks and Recreation
Phone:	510-494-4363	510-494-4329
E-Mail:	arakley@fremont.gov	aholland@fremont.gov

RECOMMENDATIONS:

1. Amend the Art in Public Places Program Policy:
 - a. To provide that funds from one or more projects can be combined.
 - b. To allow maximum flexibility in the location for public art.
 - c. To provide that the Art Review Board's recommendations about art in City parks will be made to the Recreation Commission, for recommendation to the City Council, while art in all other locations will be made to the Planning Commission, for recommendation to the City Council or Redevelopment Agency. If the Planning Commission does not have discretionary authority, the Art Review Board will make its recommendations directly to the City Council or Redevelopment Agency.
 - d. To provide for the annual appointment, by members of the Art Review Board, of two Board members and two alternate Board members, to be available to meet with the (staff) Art Liaison in providing advice and assistance, when requested, to private developers.
 - e. To include new public buildings and new parks funded as Redevelopment Agency projects.
 - f. To increase the value for exemption of projects from the Policy to \$1,000,000.
2. Direct staff:
 - a. To evaluate whether the City could submit for funding of public art when the City considers potential projects for funding with Measure WW monies.
 - b. To conduct additional analysis and prepare a recommendation for establishment of a cap on funding for public art projects.
 - c. Beginning with the 2011/12-2015/16 Capital Improvement Program cycle, to create a proposed capital project titled "Funding for Public Art" and recommend a level of General Funds for the City Council's consideration during the evaluation and prioritization of projects to receive General Funds. This funding could be utilized for a variety of purposes, including new works of public art; administrative costs for art projects funded primarily with other funding sources, but requiring an additional funding source for administrative costs; ongoing maintenance of public art works; public

education, tours, and promotion of public art in the community; and regular installation of “temporary artwork”.

5.2 STEPS DAY CARE ZONING ADMINISTRATOR PERMIT -1963 ORO DRIVE
Public Hearing (Published Notice) to Consider an Appeal of a Planning Commission Decision to Deny an Appeal of an Approved Zoning Administrator Permit to Allow a Large Family Daycare Facility up to Fourteen Children in Mission San Jose Planning Area (MIS2009-00369)

Contact Person:

Name:	Tanu Jagtap	Jeff Schwob
Title:	Zoning Technician	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4537	510-494-4527
E-Mail:	tjagtap@fremont.gov	jschwob@fremont.

RECOMMENDATIONS:

1. Hold public hearing.
2. Find that the project is statutorily exempt from the California Environmental Quality Act (CEQA) under guideline 15274.
3. Find MIS2009-00369 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Residential Land Use Policies Chapter as enumerated within the staff report.
4. Deny appeal and approve First Steps Daycare (MIS2009-00369), subject to findings and conditions in Exhibit “A”.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS – None.

7.1 AWARD DESIGN AGREEMENT TO THE CROSBY GROUP AND CONSTRUCTION MANAGEMENT SERVICES AGREEMENT TO CRITICAL SOLUTIONS, INC. FOR THE POLICE DEPARTMENT BUILDING SEISMIC RETROFIT PROJECT

Award Design Agreement to the Crosby Group in the amount of \$1,231,556, and Construction Management Services Agreement to Critical Solutions, Inc. in the amount of \$494,820 for the Police Department Building Seismic Retrofit Project, City Project Number PWC 8649 located at 2000 Stevenson Boulevard

Contact Person:

Name:	Norm Hughes, P.E.	Robert Kalkbrenner
Title:	City Engineer	Civic Facilities Development Manager
Dept.:	Community Development	Community Development
Phone:	510-494-4748	510-494-4428
E-Mail:	nhughes@fremont.gov	rkalkbrenner@fremont.gov

RECOMMENDATIONS:

1. Authorize the City Manager, or his designee, to execute a Professional Services Agreement with the Crosby Group for design services for the Police Department Seismic Retrofit Project, PWC 8649, in an amount not to exceed \$1,231,556.
2. Authorize the City Manager, or his designee, to execute a Professional Services Agreement with Critical Solutions, Inc., for project and construction management services for the Police Department Seismic Retrofit Project, PWC 8649, in an amount not to exceed \$494,820.

7.2 CONTINUED DISCUSSION OF VISION AND FRAMEWORK FOR GENERAL PLAN 2030

Contact Person:

Name:	Dan Schoenholz	Jeff Schwob
Title:	General Plan Update Project Manager	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4438	510-494-4527
E-Mail:	dschoenholz@fremont.gov	jschwob@fremont.gov

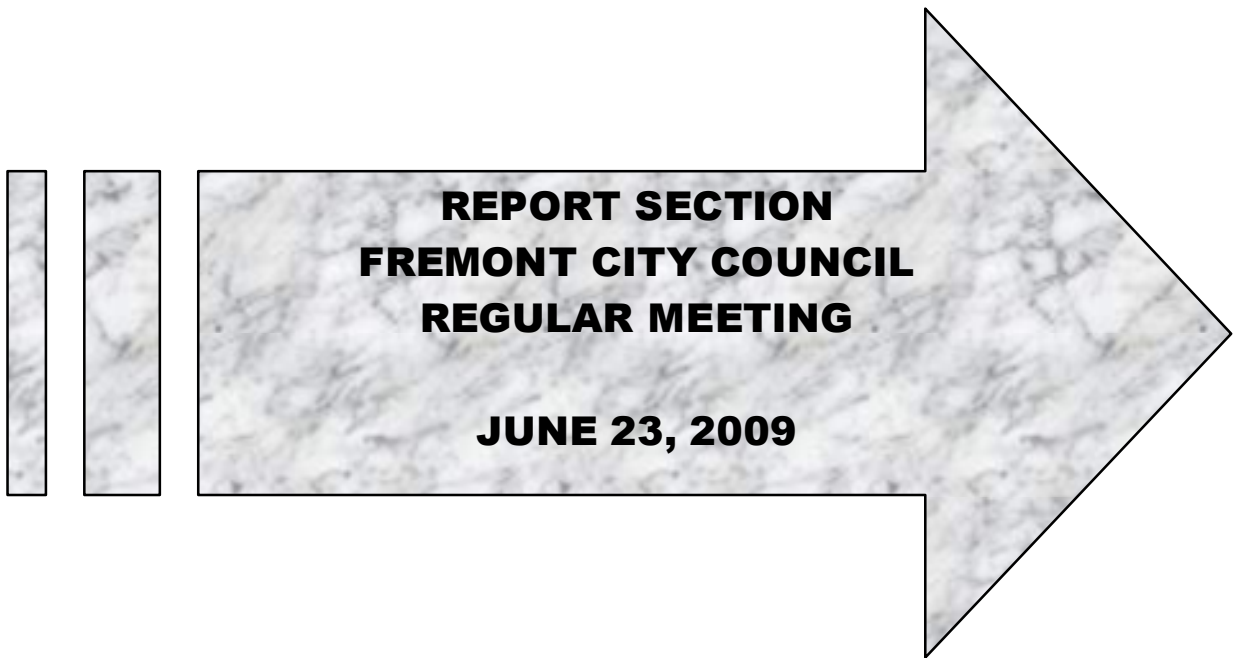
REQUESTED OUTCOMES:

1. Receive presentation.
2. Receive public comment.
3. Provide general direction to staff.

8. COUNCIL COMMUNICATIONS

- 8.1 Council Referrals – None.
- 8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



***2.3 Second Reading and Adoption of an Ordinance of the City of Fremont Cancelling the Double Wood Golf Course Development Agreement Approved by Ordinance 2482**

ENCLOSURE: [Draft Ordinance](#)

RECOMMENDATION: Adopt ordinance.

***2.4 PURCHASE OF FLEET HEAVY EQUIPMENT**

Authorization for the City Manager or Designee to Execute Purchase Order Contracts for the Purchase of Nine Pieces of Fleet Heavy Equipment

Contact Person:

Name:	Mark Collins	Frank Morgan
Title:	Fleet Maintenance Supervisor	Deputy Director of Maintenance Services
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-979-5739	510-979-5701
E-Mail:	MCollins@fremont.gov	FMorgan@fremont.gov

Executive Summary: There are currently nine pieces of equipment in the City's fleet that have reached the end of their useful lives and are scheduled to be replaced during the current fiscal year. These pieces of equipment include two aerial bucket trucks, two dump trucks, three brush chipper machines, and two compressed natural gas (CNG) street sweepers.

Based on the competitive bid received, staff is recommending that the City Council authorize the City Manager or designee to execute a purchase order with Municipal Maintenance Equipment in an amount not to exceed \$543,840 for the purchase of two CNG sweepers. For the remaining equipment categories, staff reviewed the pricing allowed by the City of Roseville's purchase contract with Altec Industries, Inc., for aerial bucket trucks, the Alameda County Water District's purchase contract with Golden Gate Truck Center for dump trucks, and Butte County's purchase contract with Arbor-Quip for brush chippers. Based on the quotes received by staff for this same or similar equipment, staff determined that the pricing received by these public agencies is the most economically favorable for the City. As a result, staff is recommending that the City Council authorize the City Manager or designee to execute a purchase order with Altec Industries, Inc., in an amount not to exceed \$311,785 for the purchase of two aerial bucket trucks, Golden Gate Truck Center in an amount not to exceed \$264,766 for the purchase of two dump trucks, and Arbor-Quip in an amount not to exceed \$133,711 for the purchase of three brush chipper machines by utilizing the competitively bid procurements of the City of Roseville, Alameda County Water District, and Butte County, respectively.

BACKGROUND: Economic operation of the City's fleet requires that vehicles and equipment be replaced before operating expenses become cost prohibitive. The Fleet Equipment Supervisor monitors vehicle operating costs and recommends replacement of vehicles and equipment based on age, mileage, and breakdown record. There are currently nine pieces of heavy equipment in service in the City's fleet that have reached the end of their useful lives: two aerial bucket trucks, two dump trucks, three brush chipper machines, and two compressed natural gas (CNG) street sweepers. Three pieces of this equipment are subject to the California Air Resources Board's (CARB) Fleet Rule for Public Agencies that requires these vehicles be replaced or retrofitted to reduce diesel particulate emissions by December 31, 2009.

The pieces of equipment that are subject to the CARB requirements include an aerial bucket truck and two dump trucks. Due to the fact that these pieces of equipment have reached the end of their useful lives and have high maintenance and repair costs, staff recommends replacing this equipment. Replacing

these vehicles offers an economical, efficient and environmentally friendly solution to the CARB requirements. In addition, both of the aerial bucket trucks that will be replaced will be replaced with new multi-purpose aerial bucket trucks that consist of aerial equipment and a chipper box. These new vehicles will allow for the permanent removal of two existing chipper trucks from the City's fleet inventory that are also subject to the CARB requirements, thus saving the City even more in the way of future vehicle retrofit and replacement costs.

Staff recommends replacement of all nine pieces of heavy equipment as soon as possible. These pieces of equipment include two aerial bucket trucks, two dump trucks, three brush chipper machines, and two compressed natural gas (CNG) street sweepers, all of which are on the FY 2008/09 Vehicle Replacement List, which was used as the basis for establishing the FY 2008/09 Vehicle Replacement Fund 610 appropriation. Retired equipment will be sold at auction and the proceeds from the sale will be deposited into the Vehicle Replacement Fund.

To ensure the best possible pricing for the equipment, staff utilized two procurement methods, both of which are in accordance with the Fremont Municipal Code (FMC) Purchasing Ordinance. Pricing for the two CNG sweepers was obtained through formal competitive bidding. Pricing for the other pieces of equipment was obtained using the authority granted in the FMC to enter into a contract for the acquisition of personal property based upon the terms of an agreement between the contractor and another public agency without utilizing a formal solicitation process. This method of procurement is commonly referred to as "piggybacking" and is designed to yield optimal pricing due to economies of scale. It also allows staff to choose a product that, based on City experience or testing, has proven to be more durable and best meets the City's equipment needs. When the piggyback method is used to select a known durable product that best meets the City's operational needs, a better savings is realized over the life of the equipment as a result of reduced repairs and downtime.

DISCUSSION/ANALYSIS: In April 2009, the City advertised invitations for bids for the replacement of two CNG sweepers by sending the solicitation to eight vendors and posting the invitation on the City's website. The following bid summary reflects the only bid received:

<u>Vendor</u>	<u>Total Bid Amount</u>
Municipal Maintenance Equipment	\$543,840

Staff believes that the City's requirements for compressed natural gas engines, a tight turning radius and a large hopper capacity were the reasons only one bid was received. Because there were no other bids received, to determine if the bid represented a fair market price for these sweepers, the incremental cost of a CNG engine, storage tanks, and equipment were added to the purchase cost of a 2009 conventional diesel sweeper of the same make and model. Based on staff's analysis, the bid by Municipal Maintenance Equipment is a fair and reasonable price for the sweepers, the bid is responsive and the bidder is a responsible bidder. The total bid amount includes sales tax, dealer discount, tire fee, and all delivery charges.

To determine the best pricing and best value to the City for the remaining pieces of equipment, staff obtained quotes for the aerial bucket trucks, the dump trucks, and brush chippers and determined that the recommended piggyback purchase contracts are at or below the costs of the quotes received. Staff also tested four different manufacturers for the dump trucks and three manufacturers for the brush chippers

and determined that the performance and design of the brush chippers from Arbor-Quip and the dump trucks from Golden Gate Truck Center best meet the City's equipment needs and provide the best value to the City.

The piggyback procurement method was utilized for three categories of equipment, resulting in three piggyback purchase agreements with the City of Roseville, Alameda County Water District, and Butte County. Each of these agencies issued competitive bids to vendors throughout California for fleet equipment and their agreements provided for piggybacking by other public agencies. Based on staff's review, there were no vendors in Fremont that produce this equipment. The table below summarizes the bid results for each of the public agencies, and staff's corresponding piggyback equipment replacement recommendation:

Name of Public Agency	Procurement Number	Selected Vendor	City of Fremont's Equipment Replacement Recommendation	Total Cost
City of Roseville	Request for Quotation #1880	Altec Industries, Inc.	2 aerial bucket trucks	\$311,785
Alameda County Water District	Request for Quotation #2945	Golden Gate Truck Center	2 dump trucks	\$264,766
Butte County	Invitation for Bids #17-09	Arbor-Quip	3 brush chippers	\$133,711

The City's invitation for bids for the CNG sweeper and the competitive bids issued by the public agencies listed in the table above meet the City's purchasing requirements and best meet the City's equipment needs and provide the best value to the City. The total price for the nine pieces of equipment that staff recommends replacing is \$1,254,102.

FISCAL IMPACT: Of the total purchase price of \$1,254,102, \$1,248,141 will be drawn from the funds already appropriated for these procurements in the Vehicle Replacement Fund (Fund 610) and \$5,961 will be drawn from the Maintenance Division's FY 2008/09 Operating Budget (Fund 001) to pay for the cost of the accessories, such as booms and winches, that are included in the equipment costs for the bucket trucks and one brush chipper. Sufficient funding is available in both of these funds for this purpose.

ENCLOSURE: None

RECOMMENDATIONS:

1. Authorize the City Manager or designee to execute a purchase order with Municipal Maintenance Equipment in an amount not to exceed \$543,840 for the purchase of two CNG sweepers;
2. Authorize the City Manager or designee to execute a purchase order with Altec Industries, Inc. in an amount not to exceed \$311,785 for the purchase of two aerial bucket trucks by piggybacking onto the City of Roseville's Request for Quotation, Number 1880;

3. Authorize the City Manager or designee to execute a purchase order with Golden Gate Truck Center in an amount not to exceed \$264,766 for the purchase of two dump trucks by piggybacking onto Alameda County Water District's Request for Quotations, Number 2945; and
4. Authorize the City Manager or designee to execute a purchase order with Arbor-Quip in an amount not to exceed \$133,711 for the purchase of three brush chipper machines by piggybacking onto the Butte County Invitation for Bids, Number 17-09.

***2.5 APPROPRIATION OF FUNDS FOR THE COSTS ASSOCIATED WITH THE
INSTALLATION OF THE FIRE STATION NO. 6 ART SCULPTURE
Approval to Appropriate Funds From Fire Bond CIP Reserve Fund 501PWC8526 to Fire
Station No. 6 501PWC8531 for the Costs Associated with the Installation of the Fire Station
No. 6 Art Sculpture**

Contact Person:

Name:	Martha S. Martinez	Robert Kalkbrenner
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Executive Summary: The purpose of this report is to recommend that the City Council approve the appropriation of \$47,200 of the Fire Bond CIP Reserve Fund 501PWC8526 to Fire Station No. 6 501PWC8531, so that expenditures for fire station artwork may be paid from this funding source. These expenditures relate to costs associated with the installation of the Fire Station No. 6 freestanding art sculpture that cannot be paid for with General Obligation Bond proceeds.

BACKGROUND: Fire Station No. 6 in Centerville is the second of three new fire stations to be constructed as part of the voter approved Measure R, Fire Safety Bond, in 2002. This bond called for the seismic retrofitting and renovation of seven existing fire stations, the construction of three new fire stations to replace existing deficient facilities, and the construction of new public safety training facilities. Fire Station No. 6 was substantially completed in December 2008.

The Fire Station No. 6 project complied with the City of Fremont's art in public places requirement by allocating 1% of the total construction costs for the provision of art. A freestanding sculpture was installed in front of the building. Later, the City's outside bond attorney advised that the cost for art that is detached from buildings is not eligible to be funded from Fire Bond proceeds. The funds in the Fire Bonds Reserve Fund 501 are not General Obligation Bond proceeds. Fire Station No. 6 is the only station out of the three new stations that has freestanding art. The art for the new Fire Stations No. 8 and No. 2 is incorporated as part of the building.

PROJECT DESCRIPTION: The art sculpture is a ten-foot high, eight-foot wide, and 2-feet deep disc carved from limestone. The disc of stone is supported by a painted steel boot attached to the bottom of the stone and to the concrete footing. The sculpture is lit at night to highlight the inside walls of the Maltese cross carved in the interior of the disc.

Discussion: The cost for the Fire Station No. 6 art sculpture is presently unfunded and cannot be paid using the Fire Bond proceeds. Therefore staff recommends that Council appropriate \$47,200 from Fire Bond CIP Reserve Fund 501PWC8526 to 501PWC8531 Fire Station No. 6. There will be \$761,000 remaining in the Fire Bond CIP Reserve Fund 501PWC8526 after this appropriation is approved.

DESIGN CONSULTANT: Michael Clapper

SPENDING LIMIT IMPACT (ARTICLE XIII B): None

ENCLOSURE: None

RECOMMENDATION: Appropriate \$47,200 from Fund 501PWC8526 (Fire Bond CIP Reserve) to 501PWC8531 (Fire Station No. 6) for the costs associated with the installation of the Fire Station No. 6 art sculpture.

***2.6 VIDEO SERVICE PROVIDERS ORDINANCE**

Introduce an Ordinance Adding Chapter 7.5 to Title V of the Fremont Municipal Code Regarding a Support Fee for Public, Educational, and Governmental (PEG) Channel Facilities and Special Provisions Applicable to State Video Franchise Holders

Contact Person:

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Executive Summary: This ordinance implements a new State law that was signed by the Governor in September 2006 and went into effect January 1, 2007. The Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”) establishes the California Public Utilities Commission as the sole franchising authority for new video service providers statewide but delegates certain rights and responsibilities to local authorities. “Video service” is a term used by DIVCA that essentially refers to television service. However, certain provisions such as support fees for public, educational, and governmental (PEG) channel facilities and customer service penalties must be established by local ordinance before they may become effective against state video franchise holders. Consequently, the City must adopt the attached ordinance to add the PEG support fee of 1% and customer service penalties for state video franchise holders to the City’s Municipal Code.

BACKGROUND: The City’s Cable Communications Ordinance was adopted in February 1994 and governs how cable operators provide services in the City of Fremont. The City was the sole local franchising authority for those companies wishing to provide cable services using the City right-of-way. With the signing of DIVCA into law in September 2006, video service providers must now obtain a franchise from the California Public Utilities Commission in order to provide video services in a local jurisdiction. With the adoption of DIVCA, the City’s Municipal Code needs to be amended to implement the state law under which a video service provider can provide services in the City of Fremont after obtaining a state franchise.

In April 2007, AT&T notified the City that it received a state video franchise. In January 2008, AT&T began providing video services within a small portion of the City along the Union City border. Since that date, AT&T pulled encroachment permits to build its infrastructure in the public right-of-way to provide video service throughout the City.

In February 1994, the City issued a cable franchise to TCI Cablevision of California, Inc., and the franchise was eventually transferred to Comcast of California IX, Inc. (“Comcast”). In January 2008, Comcast notified the City that it had obtained a franchise from the State effective January 2, 2008, and that it was now providing video service under the state-issued franchise. Comcast was entitled to do so under DIVCA because AT&T had begun to provide video service in the City. However, Comcast was required under DIVCA to continue to meet its obligations regarding PEG support and other standards under the City’s franchise agreement, which expired on March 20, 2009.

DISCUSSION/ANALYSIS: The primary impact of DIVCA on the City is that cities are now precluded from issuing new cable franchises. Instead, the California Public Utilities Commission (CPUC) is the sole franchising authority for cable and video service providers in the State.

Franchise Fees: DIVCA grants the City a franchise fee of up to five percent (5%) of the gross revenues (as defined in DIVCA) of state video franchise holders providing services within the City for use of the public right-of-way. The proposed ordinance clarifies that the franchise fee is 5% of gross revenues. The City currently receives 5% and collects an annual average of \$1,734,000 from Comcast and \$44,000 from AT&T for a total of \$1,778,000 in General Fund revenues.

PEG Fees: Cities are also entitled to an additional fee of up to one percent (1%) of the gross revenues for support of PEG access facilities, provided the City has enacted an ordinance establishing such fee. The PEG fee is passed through to subscribers, and a line item will be added to the subscriber's statement similar to the line item that appears on the statement for the franchise fee. Based on the gross revenues collected for the 5% franchise fee, it is estimated that the City will receive \$356,000 for the annual 1% PEG fee. These funds will be put in a separate account and used to replace or upgrade existing equipment for programming and broadcasting of the PEG channels, such as playback VCRs, cameras in the Council Chambers, audio systems, and video streaming (webcasting) of live meetings. Other potential uses of the 1% PEG fee include adding audio/video systems in conference rooms to allow live or taped origination of meetings at those sites, and replacing or upgrading equipment at the video production studio located in Fremont.

Customer Service Standards: Cities must also monitor customer service standards for state video franchisees but are limited to enforcing only those standards enumerated under state law, and may only impose fines for violations of those standards if the City enacts an ordinance or resolution establishing the fine schedule. The amount of each fine is limited by DIVCA. The proposed ordinance calls for maximum fines allowed under state law. These are \$500 per day for the first violation (not to exceed \$1,500), \$1,000 per day for a second violation within twelve (12) months (not to exceed \$3,000), and \$2,500 per day for a third and further violation within 12 months (not to exceed \$7,500).

Additional Provisions: The proposed ordinance also authorizes the City to perform an audit of a state franchisee's business records to ensure compliance with the fee requirements of the ordinance. In addition, when applying for a new state franchise, entities must provide a copy of their franchise application and any amendments to the City Clerk.

There are concerns about how DIVCA will interplay with other state and federal laws related to telecommunications. It is likely that many of these issues will be decided in future years through the legislative and judicial processes. In the interim, staff has determined that it is in the City's best interests to enact this ordinance, which provides the best protection for the potentially valuable PEG funding source as well as establishing fines and penalties for violations of customer service standards. Many cities, including Union City, Oakland, Berkeley, Richmond, Pinole, Morgan Hill, San Jose, Sunnyvale, Palo Alto, and Foster City, have passed a similar ordinance. Staff will keep the Council advised of any further legislative changes necessary at the City level to maximize the City's ability to protect both the franchisee revenue streams and customer service standards.

FISCAL IMPACT: The proposed ordinance ensures that the City will continue to receive a franchise fee of 5% of gross revenues from existing and future video service providers who provide services within the City. The 5% franchise fee currently collected from Comcast and AT&T results in annual average revenue of \$1,778,000 to the City's General Fund.

The proposed ordinance also establishes a 1% PEG fee, which is approximately \$356,000 in additional annual revenue to the City. This fee can only be used for capital expenditures and will be put into a separate account to purchase replacement, upgraded, or additional equipment for programming and broadcasting the PEG channels and for the video production studio thus relieving the burden upon the General Fund for this purpose.

ENCLOSURE: [Draft Ordinance](#)

RECOMMENDATION: Introduce an ordinance adding Chapter 7.5 (Video Service Providers) to Title V (Businesses, Professions and Trades) of the Fremont Municipal Code regarding a Support Fee for Public, Educational, and Government (PEG) Channel Facilities and Special Provisions Applicable to State Video Franchise Holders.

***2.7 TIMING OF COLLECTION OF IMPACT FEES—CITYWIDE**

Introduce Ordinance Amending Fremont Municipal Code to Allow Collection of Development Impact Fees After Building Permit Issuance but Prior to Any Occupancy and to Establish that the Fee Amount to be Paid is the Amount in Effect at the Time of Building Permit Issuance

Contact Person:

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Executive Summary: Like most cities, the City of Fremont typically collects development impact fees for both residential and non-residential development prior to building permit issuance. In order to encourage development applications during a more conservative lending environment and thereby spur the local economy, Council recommended on March 3, 2009 that staff explore whether of impact fees should be collected at a later stage in the development process. This is another element of a comprehensive local business stimulus package. On April 7, 2009, Council approved a temporary reduction in the amount of impact fees collected.

This proposed ordinance will allow impact fees for all types of development projects to be collected after permit issuance but prior to occupancy, and in no event later than eighteen months after building permit issuance. The proposed ordinance will also establish that the fee amount to be paid is the amount in effect at the time of building permit issuance. These changes will assist developers of both residential and nonresidential development by: (1) allowing payment of impact fees at a later date, rather than as an upfront cost associated with permit issuance (often financed by the developer at high cost—threatening project feasibility); and (2) giving the developers certainty as to the amount of the fees by establishing that the amount due is the amount in effect at the time of building permit issuance rather than the amount in effect at the time of payment (current practice).

BACKGROUND: The Mitigation Fee Act (Government Code section 66000, et seq.) authorizes local agencies to collect impact fees for residential development before building permit issuance when the local agency determines that the fees will be collected for public improvements for which an account has been established, funds have been appropriated, and for which a construction plan has been adopted. Otherwise, for residential development, fees are to be collected at the time of final inspection or issuance of certificate of occupancy. Fremont Municipal Code (FMC) Section 8-9201—“Timing of Payment,” provides: “[t]he fee for each unit of development within a development project shall be paid in full prior to the issuance of the city permit required for that unit of development, unless otherwise authorized by the Mitigation Fee Act.” As currently written, under the ordinance the City could allow residential developers to pay fees at the time of final inspection or issuance of certificate of occupancy. However, the Mitigation Fee Act is silent as to the timing of collection of fees for non-residential development. In addition, staff proposes to set an outside date for payment of the fees of eighteen months from the date of building permit issuance. Accordingly, Section 8-9201 must be amended to allow fees for non-residential development to also be collected prior to final inspection or issuance of certificate of

occupancy and to set a maximum period of eighteen months from building permit issuance for the payment of fees.

FMC Section 8-9202. “Amount of payment” provides in subsection (a): “[t]he fee to be paid for each unit of development within a development project shall be the amount of the fee in effect, pursuant to implementing resolution, at the time that full payment is made to the city.” Staff recommends that Section 8-9202(a) be amended to establish that the amount of fees to be paid is the amount in effect when building permits are issued so that developers have certainty as to the amount of the development impact fees that are due in connection with their project. As noted below, the ordinance proposes that the period of time developers have to pay the fees be limited to: 1) the date that the final inspection occurs, 2) the date the certificate of occupancy is issued or 3) a time period of eighteen months from building permit issuance, whichever occurs first. The date for payment will be established in an agreement between the City and the developer as described below. A standard agreement is currently being drafted by the City Attorney’s Office.

When impact fees are not paid at or prior to building permit issuance, the Mitigation Fee Act authorizes local agencies to condition building permit issuance upon the developer signing an agreement to pay the development impact fees. The agreement is recorded in the office of the county recorder and constitutes a lien against the property for the payment of the fees. The proposed ordinance contains a provision requiring such an agreement when fees are not paid at building permit issuance and authorizes the Community Development Director to execute the agreement on behalf of the City. The terms and conditions of the agreement must be satisfactory to the City Attorney.

No changes are proposed to the timing for collection of School Facilities Fees (enacted by FMC 8-6100 et seq.), which are collected at the time of building permit issuance. Staff contacted the Fremont Unified School District’s Business Services Office to discuss with them the steps the City is taking to defer fees. As of the writing of this report, they have not yet committed to taking any similar actions related to their fees.

Analysis: Currently, the City requires that developers pay impact fees at building permit issuance. The proposed ordinance would amend the City’s Development Impact Fee ordinance to allow the Community Development Director or designee to approve developer requests to change the timing of collection of impact fees for all projects, including residential, commercial, and industrial development, until the date of the final inspection, certificate of occupancy or 18 months from permit issuance, whichever occurs first. The 18-month deadline is intended to allow developers a reasonable time to complete the construction work prior to the fees becoming due, and to also set a time limit to ensure payment is received and control the City’s interest losses. If fees are not paid within eighteen months of permit issuance, then developers must pay the amount of the fee in effect when the fees are actually paid. The City may require residential developers to pay fees within eighteen months from building permit issuance even if that period expires prior to final inspection or issuance of certificate of occupancy because the City’s capital improvement plan, adopted on June 9, 2009, meets the statutory requirements for collecting the fees before final inspection or issuance of the certificate of occupancy. The Capital Improvement Plan establishes the accounts for the public improvements and facilities to be funded with impact fees, appropriates the funding and establishes a schedule for the projects. Multi-unit developers, at the discretion of the Community Development Director or designee, would be allowed to pay fees on a pro-rata basis for each unit, on a pro-rata basis when a specified percentage of units are

completed, or on a lump sum basis at completion of the first unit. The department will develop criteria to use in evaluating applications to defer payment of fees that relate to the creditworthiness of the applicant. Each developer approved to defer payment of fees must enter into a recordable written agreement with the City prior to issuance of a building permit. The agreement will be consistent with the requirements of the Mitigation Fee Act and contain provisions specified in the ordinance, including the amount of fees due and the time of payment. The agreement will be recorded as a lien on the property.

Current Procedure: Currently, developers are required to pay impact fees prior to building permit issuance. The fee amount is calculated based on the fees in effect at the time full payment is made. Generally, an applicant ready to pick up his or her permit will pay impact fees as one of several checklist items that can be done in one visit while the permit is being issued. Rarely, the City has entered into an Impact Fee Deferral agreement where the applicant pays at a later date, but at the amount in effect at the time of payment.

Proposed Procedure: As early as possible prior to permit issuance, the applicant would be provided with information about the fee deferral options. If the applicant's request to pay fees after building permit issuance is approved, staff would provide the applicant with the required agreement for review and signature. The fees would still be calculated at the fee amount in effect at building permit issuance. The permit would not be issued until the executed agreement is signed and delivered by the applicant.

Fiscal Impact on Development Services: Allowing developers to pay fees at a date after permit issuance and requiring agreements with each developer who elects not to pay up front will result in additional staff costs, some of which would be billable as part of certain projects being reviewed. Staff time will be required to review developer applications to defer payment, evaluate the developer's credit worthiness, prepare and periodically revise the standard agreement, personalize and review specific fee agreements, determine pro-rata payment amounts for qualifying projects, verify recordation of agreements, and record releases of agreements upon payment. These staff costs would be offset to the extent that deferring fees spurs development that in turn contributes to development review fees and brings in new residents or businesses that bolster the local tax base. It is not possible to estimate the net fiscal impact on the City budget at this time except to describe the interaction of these factors. Staff studied charging a separate fee or requiring a deposit for individual deferral agreements, but considered that to be counter to the desire of Council to reduce burdens on development through the various tools in the local business stimulus package. Staff will monitor the costs and, if appropriate at a future date, may bring back a fee for this purpose.

Fiscal Impact on Capital Improvements: The City relies upon collection of impact fees to fund various capital improvement plan projects, plans for which are based upon expected contributions reported and assigned for use by CIP projects prioritized by year. Development has been substantially down, which has reduced available money received for many projects that the City would like to be able to fund. Through this and other actions related to the local business stimulus package, the City is attempting to create an increase in overall development that, while funds may be temporarily delayed, would result in more total income to the City and a healthier local economy in the near term.

While there are certain short-term benefits of a fee deferral as it relates to a more conservative lending environment, this permanent change to the City's impact fee code can be expected to improve development prospects when the economy improves for the same reasons—that it reduces financing

costs at the beginning of construction work to make any project more economically feasible. There may be loss of fee income resulting from locking fee rates in at the date of building permit issuance and allowing deferral of payment as well as loss of interest income. There will be a loss of interest income to the City for the time period (up to 18 months maximum) between when the permit is issued and the fees are paid. The interest loss for one year of estimated revenue of approximately \$6 million, as identified in the Capital Improvement Plan and adjusted by the reduced collection amounts, could be up to \$272,000, assuming that all fees are deferred for the maximum 18-months, this estimate of lost interest income is likely to increase in future years when the full fees are collected (because fees are currently collected at a reduced rate).

Because fee rates will be locked in at building permit issuance, there will also be a loss of fee income to the extent fees are adjusted upward during the period of any deferral. Since either collection date is permitted by State law, the City is opting for the later date and foregoing the interest that would otherwise accrue if the fees were paid at building permit issuance in order to attract local development and improve development prospects in the long term. Staff will track fee information as part of the implementing internal procedure and report back on estimated lost interest income during the annual Impact Fee Update to Council.

Environmental Review: This action is exempt from the California Environmental Quality Act per CEQA Guidelines 15061(b)(3) and 15273, Rate Restructuring or Modification.

Public Notice and Comment: Staff met and discussed the proposed modifications with representatives of the development community in order to examine the effects of the program on project pro formae. It was generally agreed that this action would improve financing odds for projects planning to start construction.

ENCLOSURE: [Draft Ordinance](#)

RECOMMENDATION: Introduce an Ordinance amending the Fremont Municipal Code Sections to allow collection of development impact fees after building permit issuance, but prior to the date of the final inspection, certificate of occupancy, or for a period of eighteen months after the date of permit issuance, whichever occurs first; and to establish that the fee amount to be paid is the amount in effect at the time of building permit issuance.

***2.8 ORDINANCE AMENDMENT REGARDING PROHIBITIONS ON FORMER CITY OFFICIALS**

Introduce an Ordinance Amending the Fremont Municipal Code Regarding Prohibitions on Former City Officials for Consistency with State Law

Contact Person:

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Executive Summary: The Fremont Municipal Code currently prohibits former elected and appointed City officials, commissioners and certain designated employees from working on matters for which they provided services for the City, and/or representing third parties before the City for compensation, for one year after leaving office. As of July 1, 2006, State law now similarly prohibits former local elected officials and city managers from representing third parties before their former agency, for compensation and for a period of one year after leaving office, for the purpose of influencing administrative, legislative or other actions. State law does permit more restrictive local ordinances. This ordinance amendment clarifies that an existing waiver provision allowing the City to waive the local prohibition does not apply to former elected officials and city managers in order to be consistent with State law, and would also add the city attorney to that list. The amendment would make additional minor revisions to the ordinance to reflect changes in State law.

BACKGROUND: Fremont Municipal Code Title II, Chapter 10 (Prohibitions on Former City Officials and on Designated Former Employees), commencing at Section 2-10000, sets forth certain prohibitions on former elected and appointed City officials, commissioners and designated employees. The prohibitions are designed to preserve the integrity of the governmental decision making process in three ways. First, they assure the impartiality and independence of city officials and designated employees. Next, they prohibit the inappropriate influence of former public officials and designated former employees on the current decision-making process. Lastly, they discourage private for-profit businesses or non-profit agencies from hiring former officials or designated employees with the intent of influencing current employees and decisions.

This Fremont Municipal Code chapter seeks to achieve these goals by prohibiting former elected officials, city managers, city attorneys and designated employees from working on the same matters for which they performed services on behalf of the City prior to termination. The Code further prohibits these individuals from representing any person or entity on a matter for which they have been or will be compensated, or in which the former employee otherwise has a financial interest. The ordinance additionally bars former commissioners from representing third parties before the same commission of which they were a member on a matter for which they have or will receive compensation or otherwise have a financial interest. The ordinance contains a waiver provision whereby the City Council or City Manager may waive its prohibitions if they determine that such a waiver is in the best interest of the City and is consistent with the purpose of the ordinance. Finally, the ordinance contains an exception for

employees of other local government entities, among other exceptions. The ordinance was first enacted in 1997.

DISCUSSION/ANALYSIS: California Government Code Section 87406.3 became effective on July 1, 2006 and applies to former local elected officials, as well as former city managers and similar executive management positions for other local government agencies. Like the Fremont Municipal Code, this State law prohibits these officials from representing third parties for compensation before their former agency for the purpose of influencing administrative, legislative or other actions for one year after leaving office. The statute contains an exception for certain representatives and employees of another local government agency or a public agency, where that individual is appearing or communicating on behalf of that agency.

This State law also permits more restrictive local ordinances. The Fremont Municipal Code is currently more restrictive than State law in that it applies to the city attorney, former commissioners and designated employees, whereas the State law only applies to local elected officials and the city manager.

The proposed amendment would make it clear that the city council and the city manager could not waive the prohibitions of the ordinance for former members of the city council and former city managers in order to be consistent with State law that does not contain such waiver language. It would also add the position of the city attorney to that list. The amendment also revises the existing exception for employees of other local government entities in order to mirror the language in State law. Finally, the amendment would clarify that the existing prohibition on former elected officials, city managers and city attorneys from representing third parties for compensation before the city extends to committees, subcommittees and members of the city council and redevelopment agency board, also in order to be consistent with State law.

FISCAL IMPACT: None.

ENCLOSURES:

- [Draft Ordinance – Exhibit A](#)
- [Government Code Section 87406.3 – Exhibit B](#)

RECOMMENDATION: Introduce an ordinance amending Fremont Municipal Code Title II, Chapter 10, commencing at Section 2-10000, to make specified revisions regarding prohibitions on former city officials in order to remain consistent with State law.

***2.9 ALAMEDA COUNTY BEHAVIORAL HEALTH CARE SERVICES CONTRACT
AMENDMENT FOR FRC MENTAL HEALTH SERVICES
Authorization for the City Manager to Execute FY 2008/09 Contract Amendment with
Alameda County for Mental Health Services at the Fremont Family Resource Center and
Appropriate Additional Funding**

Contact Person:

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Executive Summary: Since 2001, the City has received funding from Alameda County Behavioral Health Care Services (ACBHCS) for a mental health professional to serve on a multi-disciplinary Family Service Team at the Fremont Family Resource Center (FRC). ACBHCS is increasing the FY 2008/09 contract cap to match increased service levels the City is providing. Staff recommends that the City Council authorize the City Manager to execute an amendment on behalf of the City in the amount of \$42,467, for a total contract amount not to exceed \$234,076, and appropriate an additional \$42,467 to equal the contract amount.

BACKGROUND: The FRC is an innovative collaborative effort of 24 State, County, City and non-profit social service agencies. Since 2001, as part of its ongoing effort to integrate services of multiple agencies for the benefit of clients, the FRC has collaborated with Alameda County to form a multi-disciplinary and multi-agency Family Service Team (FST) for clients with multiple issues who are receiving public assistance. An example of services would be to provide a client with both employment services and substance abuse counseling, as he/she navigates the CalWORKs system. On September 9, 2008, the City Council authorized the City Manager to execute an agreement with ACBHCS for these services in the amount of \$191,609.

DISCUSSION/ANALYSIS: The current \$191,609 agreement calls for the provision of 1070 hours of mental health assessments and/or treatment, and 156 hours of case management. The City is reimbursed on a billable hourly rate that is determined by the anticipated service hours. As a result of the economic downturn, demand for FST mental health and case management services has increased significantly. As of April 2009, the FST had provided 1001 hours of billable assessment/treatment services, which is 94% of the contract service goal. The FST had also provided 169 hours of case management, which is 108% of the contract service goal. In order to insure that the City receives payment for all of its reimbursable services, ACBHCS has agreed to increase the contract by \$42,467, for a total amount of \$234,076.

FISCAL IMPACT: The additional funding under this amendment will offset Family Resource Center costs up to \$42,467.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to execute a contract amendment with Alameda County Behavioral Health Care Services for reimbursement of mental health services, in the amount of \$42,467, for a total contract amount of \$234,076 and appropriate an additional \$42,467 to account 1725338, and to execute any other implementing documents.

***2.10 GRANT AGREEMENT WITH THE ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY**

Adopt a Resolution Authorizing the City Manager to Execute a Grant Funding Agreement with the Alameda County Transportation Improvement Authority for the Tri-City Senior Walk Clubs Program, Committing the Necessary Matching Measure B Funds and Stating the City's Assurance to Complete the Project

Contact Person:

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Executive Summary: Since Measure B, the half cent transportation sales tax, was re-authorized in November 2000, the City of Fremont has received Measure B pass-through funding for local streets and roads, bicycle and pedestrian projects, and specialized transportation services for the elderly and disabled. The re-authorization of Measure B also set aside discretionary grant funds to support bicycle and pedestrian projects that benefit local communities and the county as a whole. The City submitted a grant application to the Alameda County Transportation Improvement Authority (ACTIA) for Cycle 4 Bicycle/Pedestrian Countywide Discretionary Program funding to implement the Tri-City Senior Walk Clubs program, an initiative of the Pathways to Positive Aging Project. The grant application for the Tri-City Walk Clubs program, which included a local match of \$15,000 from local Measure B funds, was approved by ACTIA for \$52,000 of Cycle 4 Bicycle/Pedestrian Countywide Discretionary Program funding. This report includes a recommendation that Council adopt a resolution (as requested by ACTIA) authorizing the City Manager to execute a grant funding agreement with the Alameda County Transportation Improvement Authority for the Tri-City Senior Walk Clubs program, committing the necessary matching funds and stating the City's assurance that it will complete the project. Additionally, the report requests that Council appropriate the funds to Fund 178.

BACKGROUND: The development and implementation of the Tri-City Senior Walk Clubs program is an identified mobility initiative of the Pathways to Positive Aging Project, a community partnership between the Tri-City Elder Coalition and the City of Fremont to improve the quality of life for older adults in the Tri-Cities area. Additionally, walking programs and advocacy to encourage walking have been identified as recommendations in both the City's and County's Pedestrian Master Plans.

The Tri-City Senior Walk Clubs program is a walking promotion and education program that is aimed at promoting mobility for older adults, decreasing the risks for chronic health conditions and functional impairments that result from these conditions and supporting seniors' ability to access transportation and stay connected to community activities and services.

In December 2008, the City submitted a grant application to ACTIA for Cycle 4 of the Bicycle/Pedestrian Countywide Discretionary Program to implement the Tri-City Senior Walk Clubs program. The City's two year project proposal requested \$52,000 in funding from ACTIA with the City providing a \$15,000 match from its local Measure B Bicycle and Pedestrian pass-through funds. The

ACTIA Board recently approved the City's grant application for the requested funding of \$52,000 to implement the program for FY 2009/10 and FY 2010/11. During the two-year grant period, the project will establish a minimum of 12 organized walking groups for seniors. Each group is expected to have an average of 15 - 20 senior participants. Seniors will participate in a proposed 20 week curriculum where groups will meet weekly for 90 minutes for an organized walk and a discussion group focused around an educational topic, such as strength and flexibility exercises, pedestrian safety, personal security, falls prevention, nutrition education, and other health promotion topics.

The program will be implemented by the City of Fremont in conjunction with community partners in the Tri-City Elder Coalition.

Funding for the project will be used to cover direct project costs, such as project staffing, program materials, and printing.

FISCAL IMPACT: There is no fiscal impact on the City's General Fund because the project is entirely supported by Measure B funding.

ENCLOSURE: [Draft Resolution](#)

RECOMMENDATIONS:

1. Adopt a resolution authorizing the City Manager or designee to execute a grant funding agreement with ACTIA for the Tri-City Senior Walk Clubs program, committing the necessary matching funds and stating the City's assurance that it will complete the project.
2. Appropriate grant funding of \$52,000 to ACTA/ACTIA grants, Fund 504, and local match of \$15,000 to Measure B Bicycle and Pedestrian Fund 509.

***2.11 AUTHORIZATION TO ENTER INTO AGREEMENTS TO COMPLETE THE PURCHASE OF MOBILE RADIOS**

Authorization for Alameda County and the City of Pleasanton to Act on Behalf of the City of Fremont to Purchase Mobile Radios as Part of an Assistance to Firefighters Grant and the Citywide Communication Upgrade Project

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Executive Summary: Staff seeks City Council approval to authorize Alameda County and the City of Pleasanton to act on behalf of the City of Fremont to complete the purchase of 15 mobile radios. The Fremont Fire Department teamed up with several other regional fire departments in a successful Assistance to Firefighters Grant (AFG) application from the Department of Homeland Security to purchase mobile radios. The grant award covers 80% of the cost of the radios, leaving a not-to-exceed matching cost to the City of \$17,859.47. The equipment purchase is budgeted in the FY 2008/09 Capital Improvement Program (CIP) Budget.

BACKGROUND: Earlier this year, the Fremont Fire Department joined with the five other member agencies of the dispatch center consortium, the Alameda County Regional Emergency Communications Center (ACRECC), in an AFG grant application for the purchase of Fire Department mobile radios. City of Fremont participation in the grant allowed City communications to be in line with the latest technology, be compatible with current and future radio systems, and provide interoperability with our regional partners, as well as leverage City funds and increase City purchasing power for other projects under consideration.

DISCUSSION/ANALYSIS: Participation in this grant requires that other governmental entities perform administrative functions on behalf of the City of Fremont. Specifically, Alameda County will procure 15 portable radios through a competitive-bid process. Additionally, the City of Pleasanton will act as the financial administrator for the various grantees and will provide invoicing and reimbursement to Alameda County for the equipment. This arrangement requires approval of the City Council under Government Code Section 6502.

FINANCIAL IMPACT: Total cost of the radios including installation and training is \$89,297.36. Under the grant terms, the City is required to provide a 20% match, which will not exceed \$17,859.47. Funding for the radio equipment is budgeted in the adopted CIP Budget for FY 2008/09 under the Citywide Communications Upgrade Project (SP180).

ENVIRONMENTAL REVIEW: None.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or designee to enter into an agreement to allow Alameda County to act as the purchasing agent and the City of Pleasanton to act as the financial administrator to complete the purchase of 15 mobile radios on behalf of the City of Fremont as part of the Assistance to Firefighters Grant and the Citywide Communication Upgrade Project.

5.1 RECREATION COMMISSION REFERRAL: RECOMMENDED CHANGES TO THE ART IN PUBLIC PLACES PROGRAM POLICY

Recreation Commission Referral Concerning Recommended Changes to the Art in Public Places Program Policy

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Executive Summary: The City of Fremont's *Art in Public Places Program Policy* has not been updated since its adoption in 1987. The Art Review Board has worked with City staff to recommend a comprehensive update of the Policy, resulting in recommendations to the Recreation Commission on April 1, 2009. Overall, there is concurrence between the Art Review Board, the Recreation Commission, and staff about recommended changes to policy and procedures. The areas where there is a lack of concurrence are explained in the body of this report.

In addition to the policy issues discussed in this report, the Art Review Board expressed several interests to which staff has responded as described below. These interests do not require action by the City Council.

Following City Council action, staff will prepare text amendments to the Art in Public Places Program Policy to reflect the Council's direction. The revised Policy will be the subject of a future agenda item for City Council adoption by resolution.

BACKGROUND: In March 2006, the Art Review Board ("the Board") discussed the relevance of the 1987 *Art in Public Places Program Policy* ("the Policy") to current and future needs. Over the past several years, staff has worked with the Board to define specific areas of interest and to develop recommendations for changes to policies and procedures. Staff from the two City departments responsible for projects which are subject to the Policy – Community Development, and Parks and Recreation – provided suggestions which, in some cases, were incorporated into the Board's recommendations.

Overall, there is concurrence between the Art Review Board, the Recreation Commission, and staff about recommended changes to policy and procedures. The areas where there is a lack of concurrence are explained in the body of this report.

The current *Art in Public Places Program Policy* is included as Enclosure A. Following City Council action, staff will prepare text amendments to the Art in Public Places Program Policy to reflect the Council's direction. The revised Policy will be the subject of a future agenda item for City Council adoption by resolution.

Non-policy interests of the Art Review Board: The Art Review Board expressed the following three interests, which do not require action by the City Council:

1. Develop a clear mission statement for the Art Review Board.

Staff discussed whether the Board may be better served by developing a “vision” statement as opposed to a “mission” statement, since the mission of the Board is established, de facto, in the Art in Public Places Program Policy.

The primary organizational concern about the Board’s desire to develop a mission statement is the amount of staff time and expense that would be required to support such an effort, which would be expected to include public outreach and participation. There is no funding currently available to support this effort. The development of a Mission Statement, a Vision Statement, or the establishment of Art Zones could be revisited when the City is in a better financial position.

2. Ensure that the updated General Plan includes a discussion of the importance of public art and also includes goals and policies that reflect that importance.

Staff is currently developing a discussion of public art in the “Community Character” element of the General Plan, and is planning on Art Review Board review of the draft language in early to mid summer.

3. Create a mechanism to inform the Art Review Board at the beginning of each year about the status of upcoming projects subject to the Art in Public Places Program Policy, including project description, location and funding level for public art.

Staff can provide updates on the status of upcoming projects to the Art Review Board as an administrative function, similar to the manner in which information about park development projects is provided to the Recreation Commission.

Policy Issues: The following discussion of the Art Review Board’s five policy issues is divided into two sections. The first section describes issues with concurrence between the Recreation Commission, Art Review Board, and staff. The second section describes issues where there is a lack of concurrence.

I. Issues with concurrence between the Recreation Commission, the Art Review Board, and staff:

Policy Issue #1: Create a public art project ‘account’ into which funds for public art projects would be placed. These funds could be spent on one or more public art projects at any location identified as suitable by the Art Review Board and City Council.

To date, public art projects resulting from the Policy have been installed at the project site. Please refer to Enclosure B for a list of the City of Fremont’s current inventory of public art works and their locations.

The Recreation Commission supports the Art Review Board’s recommendation to create greater flexibility in the City’s public art program by providing the option for funds generated by eligible projects to be combined. The Recreation Commission also supports the Board’s recommendation for

greater flexibility by eliminating the current policy that the public art project be located on the site of the project which provided the public art funds.

The City Council previously expressed support for the idea of combining funds from one or more projects, and for allowing maximum flexibility in the location for public art projects. The Council expressed these interests on April 1, 2008, when approving the selection of Robert Ellison's "A-Mend" sculpture for the Maintenance Center. Because there was approximately \$93,000 in public art funding remaining from that public art selection process, the City Council voted to reallocate those monies to a new public art account, and "directed the Art Review Board to work jointly with the Recreation Commission and staff to identify a highly visible City-owned site suitable for such a public art work.

In addition to funds that would be generated by public projects subject to the Art in Public Places Program Policy, the public art account could be the depository for monies from other sources, such as discretionary private sector funding or grant funds.

Measure WW: One example of a potential funding source for public art is Measure WW, the Regional Open Space, Wildlife, Shoreline and Parks Bond approved by East Bay voters in November 2008. Eligible projects are broadly defined as "Capital projects that will provide lands and facilities for recreation activities and services and historic preservation." Public art projects are eligible for funding as long as they are in or adjacent to a parks and recreation facility.

Staff has not yet developed a process for identifying and prioritizing eligible projects for Measure WW funds. The City has many park development and renovation projects which have waited for funding and completion for many years. Some of the projects are eligible for funding with park development impact fees, but have not been built due to the lack of General Funds to pay for additional park maintenance staff to maintain the new improvements. In other cases, park renovation projects, which are ineligible for funding with park development impact fees but eligible for funding with General Funds, remain unfunded due to higher priorities in other program areas which are competing for extremely limited General Funds. Projects in both of these categories would be potential candidates for funding with Measure WW monies.

At this time, staff supports the concept of requesting some portion of the Measure WW funds for public art projects, if there are projects that meet the required criteria and are at the adequate level of design development in order to qualify for funding consideration.

Policy Issue #2: Expand the role of public art in the community by providing General Funds for the following purposes:

- a. **Administrative costs associated with the Art in Public Places Program that are not tied to specific development projects, including staffing of the Art Review Board and related costs.**
- b. **Ongoing maintenance of public artwork, including repair and restoration when needed.**
- c. **Public education, tours, and promotion of public art in the community.**
- d. **Regular installation of "temporary artwork".**

The Art Review Board has an interest in expanding the role of public art in the community. This increased role would require funding. Section V of the Policy describes one of the “further duties” of the Art Review Board, as follows: “To advise and assist the City in obtaining financial assistance from private, corporate, and governmental sources for art in public places”.

The Board discussed the possibility of recommending a one-half percent increase in the formula by which public art funding is calculated, to provide funding for these public art initiatives. Staff pointed out that many funding sources have legal limitations on the uses to which they can be put; as such, the policy intent of providing additional funding for an expanded public art program would not be achievable through the use of such resources.

The Recreation Commission supported the Art Review Board’s recommendation, based on a staff proposal, to utilize the biennial Capital Improvement Program process to provide for consideration and potential prioritization of funding for public art. Staff would submit a proposed capital project, of a general nature, titled “Funding for Public Art”, and suggest a level of General Funds for the Council’s consideration.

Staff advised the Art Review Board and the Recreation Commission that the City’s current economic crisis has placed significant demands on the General Fund, resulting in many millions of dollars of high-priority projects remaining unfunded, and overall budget and staffing reductions. In this context, it is unlikely that public art projects and programs would receive funding at this time.

Policy Issue #3: Amend the Art in Public Places Program Policy to provide that the Art Review Board’s recommendations about art in City parks will be made to the Recreation Commission, for recommendation to the City Council, while art in all other locations will be made to the Planning Commission, for recommendation to the City Council or Redevelopment Agency. If the Planning Commission does not have discretionary authority, the Art Review Board will make its recommendations directly to the City Council or Redevelopment Agency.

This recommendation would restructure the Art Review Board process to become similar to the process utilized by the Historic Architectural Review Board (HARB). The locus of HARB’s recommendations is determined by which body (the Planning Commission or the City Council) has approval authority of the particular project under consideration. HARB’s recommendations are sent directly to the approving body; so, in some cases, the approving body is the Planning Commission and in some cases the approving body is the City Council or Redevelopment Agency.

For the Art Review Board, this new approach would make a distinction between those public art projects resulting from the development of a new city park, and those art projects resulting from a new public building. The development of new parks is subject to the provisions of the Policy; in these cases, the Art Review Board would make recommendations about the public art projects to the Recreation Commission, which would make its recommendations to the City Council or Redevelopment Agency. For new public buildings requiring discretionary approval by the Planning Commission and/or City Council/Redevelopment Agency, the Board would make its recommendations to those bodies.

II. Issues with a lack of full concurrence between staff and the Recreation Commission, and the Art Review Board:

Policy Issue #4: Expand the scope of the Art in Public Places Program Policy to include all public projects that exceed \$1,000,000 in estimated construction costs. This expanded scope would include buildings, parks, bridges, tunnels, gateways, sidewalks, new construction, renovation, and Redevelopment Agency projects.

The current Policy applies to new public buildings and new parks constructed by the City which have an estimated construction cost of \$500,000. This amount has not been updated since the adoption of the Policy in 1987. Using a 5% annual compounding rate between 1987 and the present, this \$500,000 amount approaches \$1,000,000 in present day value. The Board accepted staff's recommendation that the policy be amended to more accurately reflect current costs for establishing the minimum value for projects subject to the Policy by raising the amount to \$1,000,000. The Recreation Commission supports the Board's recommendation on this issue. Thus, this is an item of concurrence.

The Recreation Commission and staff are in concurrence with the Board's recommendation to expand the scope of the Policy to include new public buildings and new city parks which are Redevelopment Agency projects. However, the Recreation Commission and staff do not concur with the Board's recommendation to expand the scope of the Policy to include other public projects such as "bridges, tunnels, gateways, sidewalks, new construction, renovation . . ." Many of the City's roadway and sidewalk projects are funded with Gas Tax and/or Traffic Impact Fees. Staff would need to investigate whether public art projects are eligible expenses of these funds. Even if public art is an eligible expense, staff thinks that the funding should be used exclusively to provide the public infrastructure intended for development with the monies.

Redevelopment Agency staff support expanding the Policy to include new public buildings and new parks funded as Redevelopment Agency projects. However, Agency staff does not support expanding the Policy to include other types of projects as suggested by the Art Review Board.

Funding cap for public art: In addition to raising the dollar value for exempting projects from the Policy, staff recommends the establishment of a cap on funding for public art projects. This cap would be determined after additional staff analysis. The Art Review Board did not concur with this recommendation and reiterated its support for the consistent application of the 1% formula for establishing budgets for public art projects, regardless of the resulting funding level.

Recreation Commission recommendation (as recommended by staff, and included in the "Recommendations" section at the end of this report):

1. Expand the scope of the Art in Public Places Program Policy to include new public buildings and new parks funded as Redevelopment Agency projects.
2. Increase the value for exemption of projects from the Policy to \$1,000,000.
3. Direct staff to conduct additional analysis and prepare a recommendation for establishment of a cap on funding for public art projects.

Policy Issue #5: The Art Review Board recognizes that the City of Fremont encourages artwork in private developments within certain zones of the City. To assist with the process, the Art Review Board will meet with developers to consult on art for these zones. Where public art is required of a private developer by City policy, developers shall meet with the Art Review Board for advice, assistance, and approval.

Section V (Criteria for Selection of the Art Review Board) of the Art in Public Places Program Policy lists “further duties” of the Art Review Board. Duty #7 is “To advise and assist private property owners who desire advice on art in public view”. This section also states, “The members of the Art Review Board will work in coordination with the City’s Art Liaison, project manager, project designer, users of the building, developers, and the Recreation Commission as outlined in the policy procedures”.

Section VII (Public Art in Private Places) of the Policy states, “The Art Liaison will be available for advice and offer expertise to assist private developers”. The Art Liaison is the City staff person appointed to “act as the art expert and liaison to the Art Review Board and the City Council”, and who also functions as the Secretary to the Board.

As a means to avoid requiring a formal meeting of the Art Review Board to provide advice and assistance to developers, the Board voted to recommend that two Board members be chosen for meetings with developers. The Recreation Commission modified this recommendation by adding the selection of two alternate Board members who would fill in for one or both of the Board members chosen for this subcommittee who may not be able to attend a meeting with developers for discussion of proposed art work. Staff supports this modified recommendation.

However, neither the Recreation Commission nor staff support the Art Review Board’s recommendation to amend Section V, Duty #7 of the Art in Public Places Program Policy (described above), which is “To advise and assist private property owners who desire advice on art in public view”. The Board’s recommended change would require the developers to consult with the Board, when art is required by policy or other City action (such as a condition of approval of a development project), rather than leave the consultation process to the optional discretion of the developer. Changing the policy from an optional to a mandatory process would add to a developer’s time and expense and would therefore be contrary to the City’s economic development goals. The expense of a mandatory process would have to be borne by the developer, through payment of a fee, or subsidized by the General Fund.

For these reasons, there is no recommendation to change the language of the existing policy.

Recreation Commission recommendation (amending the recommendation of the Art Review Board and supported by staff; included in the “Recommendations” section at the end of this report):

1. Amend the Art in Public Places Program Policy to provide for the annual appointment, by members of the Art Review Board, of two Board members and two alternate Board members, to be available to meet with the (staff) Art Liaison in providing advice and assistance, when requested, to private developers.

NEXT STEPS: Staff will prepare text amendments to the Art in Public Places Program Policy to reflect the Council's direction. The revised Policy will be the subject of a future agenda item for City Council adoption by resolution.

ENCLOSURES:

- [Enclosure A: Art in Public Places Program Policy, June 9, 1987](#)
- [Enclosure B: Art in Public Places Inventory, March 2009](#)

RECOMMENDATIONS:

1. Amend the Art in Public Places Program Policy:
 - a. To provide that funds from one or more projects can be combined.
 - b. To allow maximum flexibility in the location for public art.
 - c. To provide that the Art Review Board's recommendations about art in City parks will be made to the Recreation Commission, for recommendation to the City Council, while art in all other locations will be made to the Planning Commission, for recommendation to the City Council or Redevelopment Agency. If the Planning Commission does not have discretionary authority, the Art Review Board will make its recommendations directly to the City Council or Redevelopment Agency.
 - d. To provide for the annual appointment, by members of the Art Review Board, of two Board members and two alternate Board members, to be available to meet with the (staff) Art Liaison in providing advice and assistance, when requested, to private developers.
 - e. To include new public buildings and new parks funded as Redevelopment Agency projects.
 - f. To increase the value for exemption of projects from the Policy to \$1,000,000.
2. Direct staff:
 - a. To evaluate whether the City could submit for funding of public art when the City considers potential projects for funding with Measure WW monies.
 - b. To conduct additional analysis and prepare a recommendation for establishment of a cap on funding for public art projects.
 - c. Beginning with the 2011/12-2015/16 Capital Improvement Program cycle, to create a proposed capital project titled "Funding for Public Art" and recommend a level of General Funds for the City Council's consideration during the evaluation and prioritization of projects to receive General Funds. This funding could be utilized for a variety of purposes, including new works of public art; administrative costs for art projects funded primarily with other funding sources, but requiring an additional funding source for administrative costs; ongoing maintenance of public art works; public education, tours, and promotion of public art in the community; and regular installation of "temporary artwork".

**5.2 FIRST STEPS DAY CARE ZONING ADMINISTRATOR PERMIT -1963 ORO DRIVE
Public Hearing (Published Notice) to Consider an Appeal of a Planning Commission
Decision to Deny an Appeal of an Approved Zoning Administrator Permit to Allow a
Large Family Daycare Facility up to Fourteen Children in Mission San Jose Planning Area
(MIS2009-00369)**

Contact Person:

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Executive Summary: This is an Appeal of the approval of a large family day care facility permit issued by the Zoning Administrator subject to conditions on April 7, 2009 and upheld by the Planning Commission on Appeal. The appeal is brought by 14 neighbors who assert that the facility will increase traffic and noise and cause a loss of quality of life. State law, however, strictly limits the City's consideration of such potential impacts. Because the proposed facility meets the City's standards for large family day care adopted in accordance with the state law, and because the City cannot consider traffic impacts from the project under state law, the application must be approved.

BACKGROUND: The applicant has applied for a Zoning Administrator use permit (Fremont Municipal Code (FMC) Section 8-2603.1(d)) for a large family day care home for up to 14 children. The project site is an existing single family residence within an established neighborhood. The applicants have been renting this property since June 2008. The applicant currently operates a state licensed small family day care home, which allows the supervision of up to 8 children. Under state law, small family day care homes may not be regulated by the city, while large family day care homes are subject to local zoning regulations within the limits set by the state.

Project Analysis: The City Council's consideration of the project is governed by both the State's Family Day Care law (Health & Safety Code §1597.30 et seq.) and the City's local zoning regulations (FMC §8-22147.5). The State law limits the City's consideration of the project in two significant ways that are relevant here. First, the State law requires the City to issue a zoning administrator permit if the project meets the standards set by the state Fire Marshall and any additional standards prescribed by the City. Second, the State law only allows local zoning ordinances to set standards for (as applicable here) noise control, parking, and traffic control. Any noise standards must be consistent with local ordinances implementing the noise element of the general plan, and must take into consideration the noise levels generated by children. The City's local standards are discussed below under "Zoning Regulations".

General Plan Conformance: The existing General Plan Land Use designation for the project site is Low Density Residential (5 to 7 dwelling units per acre). As required by state law, the General Plan allows large family day care facilities within the Residential Land Use designation. Accordingly, the proposed project is consistent with the existing General Plan.

Zoning Regulations: The project site is zoned R-1-8, Single Family Residence District. A large family day care home use is an allowed use in the R-1-8 District with a Zoning Administrator Permit. The standards for reviewing the permit application are found in FMC Section 8-22147.5. The standards address spacing of facilities, parking requirements, noise, location and use of outdoor play area and playground apparatus, fencing and screening. The standards relevant to the appeal are discussed below.

Parking: FMC Section 8-22147.5(b) requires a minimum of two parking spaces be available to serve the customers during the facility's hours of operation. The parking spaces must be located in a manner to be readily and safely utilized by the customers. The spaces may be located on-street, or on the private driveway exclusively serving the use (FMC § 8-22147.5(b)(3)) provided the driveway remains clear and available for customers during hours of operation and the garage is utilized for parking. (FMC §8-22147.5(c)(1) & (2)).

The applicant proposes to meet the parking requirement with two driveway spaces. Staff have proposed conditions to ensure that the driveway is used in the manner required by the code, including parking only in the subject site's driveway or on the curb next to the subject site (there is 30' of on-street curb parking available at the site) so as not to restrict the flow of traffic for the neighbors (Condition 9), requiring the applicant to ask that customers comply with a 10-minute curb time for drop-off and pick-up (Condition 10), and that workers and residents park their vehicles in the garage area in order to encourage drop-off and loading on the driveway or street frontage. (Condition 11).

Noise and Outdoor play: FMC Section 8-22147.5(d) limits the hours of outdoor play from 9 a.m. to 8 p.m., requires that outdoor play be supervised, and limits noise to a day and night average noise level (Ldn) of 60 decibels (db) at the property line. Section 8-22147.5(e) limits play apparatus to the rear yard or interior side yard. In addition, Section 8-22147.5(f) restricts the use and location of play areas from causing excessive discomfort for adjacent residents or property owners on the use of their property. These standards are intended to be consistent with the Fremont General Plan which states that the outdoor noise (defined as "unwanted sound") levels for residentially developed areas shall generally maintain a maximum outdoor Ldn of 60 db.

The applicant proposes to locate and operate the play area and apparatus consistent with these requirements. Outdoor play will be in the rear/side yard and is generally scheduled for one hour in the morning and one hour in the afternoon. (Conditions 7 and 8).

Traffic: As stated earlier in 'Background', the subject site is located on Oro Drive, which is a minor residential street with a curb to curb width of approximately 36' and a posted speed limit of 25 mph. Neighbors of Oro Drive expressed concerns with respect to traffic on the street. Although traffic impacts generally may not be considered, Staff requested the Traffic Engineering Division to perform a traffic analysis for the proposed large family day care. The finding from the traffic analysis was that the proposed use would have no significant traffic impact to the neighborhood. (Informational 5)

The Traffic Engineering's trip estimates for the proposed 14 child large family day care at were as follows:

Estimated Volumes for the proposed project:

AM Peak Hour (7:00-9:00 a.m.) = 11 Trips or 2 trips every 10 minutes

PM Peak Hour (4:00-6:00 p.m.) = 11 Trips

The traffic engineer's analysis utilized the Institute of Transportation Engineers (ITE), Trip Generation rates for Day Care Center (ITE Land Use #565). Based on the low number of trips the project is estimated to generate, the Transportation Division believes the traffic impact the day care will have on the residential streets in the neighborhood is minimal.

Zoning Administrator Action

After receiving six e-mails and two letters opposing the use, the Zoning Administrator held a hearing on March 2, 2009. Seven residents of Oro drive and one property owner of Una Court spoke opposing the approval at the hearing. The main concerns raised by the residents were the traffic, parking and noise that the use would bring to the quiet residential street. The Zoning Administrator deferred making a decision until after conducting a site visit and traffic analysis. On April 7, 2008, the Zoning Administrator approved the large family daycare based on findings and subject to conditions, including new conditions addressing drop off procedures for parents.

Appeal to the Planning Commission

On April 16, 2009, neighbors Delores and Howard Herrington of 1976 Oro Drive appealed the Zoning Administrator's decision approving a large family day care to the Planning Commission citing traffic, noise and parking as reasons for their appeal. After hearing the item on May 14, 2009, the Planning Commission denied the appeal and granted the Zoning Administrator Permit by a vote of 4-1-0-2-0, one commissioner voted no and two commissioners were absent.

Appeal to City Council

On May 22, 2009, fourteen neighbors appealed the Planning Commission's decision to grant the Zoning Administrator Permit to the City Council, again citing traffic, noise and loss of quality of community life, and requesting that the Council deny the Zoning Administrator Permit. (Informational Item #2).

Staff recommends that the Council deny the appeal and approve the issuance of the permit for the project. As proposed and conditioned, the project meets all of the requirements for large family day care homes set forth in FMC section 8-22147.5 for parking and noise, and accordingly under State law, must be approved. Moreover, the traffic analysis performed by staff reveals that traffic impacts will be minimal. But even if the impacts were not minimal, State law only allows cities to establish standards for traffic control, and does not allow the cities to consider the impact to traffic generally that a large family day care home may cause. The neighbors concerns regarding traffic thus may not be taken into consideration by the Council.

Environmental Review: The project is exempt from the California Environmental Quality Act pursuant to Guideline 15274, Family Daycare Homes.

Public Notice and Comment: Public hearing notification is required for all appeals of decisions made by the City Council. A total of 14 notices were mailed to the owners and occupants of all property located within 100 feet of the project site. A Public Hearing Notice was also published in *The Tri-City Voice*.

ENCLOSURES:

- [Exhibit "A" Findings and Conditions of Approval for MIS2009-000369](#)
- Informational Items:
 1. [FMC section 8-22147.5](#)
 2. [Appeal letter dated May 20, 2009.\(appeal filed 5/22/2009\)](#)
 3. [Traffic Analysis by Transportation Engineering Division.](#)
 4. [Photos of front of 1963 Oro Drive](#)
 5. [Planning Commission draft minutes of May 14, 2009](#)
 6. [Informational Exhibit 1](#)
 7. [Applicant statement of operations](#)
 8. [Day care Parking and Safety instructions](#)

RECOMMENDATIONS:

1. Hold public hearing.
2. Find that the project is statutorily exempt from the California Environmental Quality Act (CEQA) under guideline 15274.
3. Find MIS2009-00369 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Residential Land Use Policies Chapter as enumerated within the staff report.
4. Deny appeal and approve First Steps Daycare (MIS2009-00369), subject to findings and conditions in Exhibit "A".

6.1 Report Out from Closed Session of Any Final Action

7.1 AWARD DESIGN AGREEMENT TO THE CROSBY GROUP AND CONSTRUCTION MANAGEMENT SERVICES AGREEMENT TO CRITICAL SOLUTIONS, INC. FOR THE POLICE DEPARTMENT BUILDING SEISMIC RETROFIT PROJECT
Award Design Agreement to the Crosby Group in the amount of \$1,231,556, and Construction Management Services Agreement to Critical Solutions, Inc. in the amount of \$494,820 for the Police Department Building Seismic Retrofit Project, City Project Number PWC 8649 located at 2000 Stevenson Boulevard

Contact Persons:

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Executive Summary: The purpose of the Police Building seismic upgrade project is to strengthen the building's structural system and non-structural elements that are critical for continual building operations so that the Police Department will be able to continue operations after a significant seismic event. In order to deliver the seismic retrofit project, consultant design and project/construction management services are required. Staff is recommending the Council enter into an agreement with the Crosby Group for design services, and with Critical Solutions, Inc., for project and construction management services in amounts not to exceed \$1,231,556 and \$494,820, respectively.

BACKGROUND: The Fremont Police Building is a three-story essential services building erected in 1993-1995 and was designed under 1991 Uniform Building Code (UBC) specifications. The building, located at 2000 Stevenson Boulevard, houses all Police Department functions within the City of Fremont as well as the City's 911 Dispatch Center. The existing police facility serves over 215,000 residents over 92 square miles.

At the time of its design, the original structural engineers specified a structural system comprised of fully welded steel beam to column connections; this structural system was considered optimal at that time by most engineers in terms of its earthquake resistance. These welded beam to column connections currently exist at approximately 105 locations through the building.

During the later stages of construction on the Police Building, a significant seismic event (earthquake) occurred along a previously unknown fault near the City of Northridge which caused an unprecedented number of fractures to similar steel beam to column connections. This damage caused great concern among the engineering community about the vulnerability of this structural system, and led to a major FEMA funded research effort. This research program resulted in the publication of many new provisions for the construction of steel framed buildings and has significantly changed the way these buildings are constructed today. Of the over 100 buildings that were known to suffer damage, most had lateral force resisting structural systems similar to the existing Fremont Police Facility.

The police facility project construction was completed in 1995 with the knowledge that additional modifications to the structural design would need to be made in the future. The City has decided to address these vulnerable connections by performing a voluntary seismic retrofit. This seismic retrofit project is intended to significantly increase the probability that the facility will be functional and able to operate effectively during and after a major seismic event. On June 5, 2007, the City Council approved the FY 2007/08 – 2011/12 Capital Improvement Plan (CIP), which included City Project No. PWC8649 (CIP #SP92) for the Seismic Retrofit of the Police Building.

Design Selection Process: On December 20, 2007, the City issued a request for proposals to provide professional architectural and engineering services for the police building seismic retrofit project. The City received and reviewed proposals from eight firms, and selected the Crosby Group.

On May 6, 2008, the City Council appropriated \$250,000 from the Capital Project Fund's fund balance for project planning, management and design work associated with the seismic retrofit of the Police Building. The intention is to ultimately reimburse these expenditures using Certificates of Participation (COPs) permanent financing. The Crosby Group was retained to analyze the building, propose preliminary retrofit design options, and develop cost estimates.

On February 25, 2009 the Crosby Group issued its final report on the building's structural evaluation and retrofit options. Performance of the existing structural system was modeled for varying sizes of earthquakes. For the Design Basis Earthquake (DBE) and the Maximum Credible Earthquake (MCE), it is anticipated that damage to the building could lead to long periods of structural and non-structural repair, occupant displacement and possibly partial localized building collapse. Based on these initial findings, six distinct retrofit options were initially considered. Based upon additional direction from the City, three of the six options (Option 1 Less Than Life Safety, Option 4 Life Safety, and Option 5 Immediate Occupancy) were studied in greater depth to gain a better understanding of building impacts, anticipated total project costs, and the expected performance level associated with each of these schemes. After considering the performance level and budget constraints, the City chose Option 5 Immediate Occupancy, the highest safety and operational level.

Subsequent to receiving the Crosby Group's Final Report, the City entered into a professional services agreement with Degenkolb Engineers to peer review the report. Degenkolb Engineers found the concerns expressed in the report by Crosby Group, with respect to the potential for structural damage during a design level seismic event, are well founded. In particular, the Degenkolb Engineers a) found that the Crosby Group has accurately identified a number of key parameters that influence the seismic risk at the building; b) agreed that the probability of damage due to significant ground shaking from seismic activity on the various components of this fault are relatively high; and c) agreed that the proposed retrofit design is appropriate to address these issues.

On April 9, 2009, the City entered into an agreement with the Crosby Group to begin working on the design development documents. This effort involved evaluating the facility to predict floor to floor displacement and general building performance under expected earthquake loads. While this analysis will not be complete until more geotechnical information is available, the initial findings allowed the team to identify probable work locations within the building. The design team also inspected the building to determine the operational impact of new structural braces and in some cases relocated the

proposed structural work to minimize long term impacts on occupants or avoid functional changes to the building.

Crosby Group Scope of work (Design): The scope of services for this agreement includes but is not limited to the following:

- a) Continued evaluation throughout the design process of how the building is likely to respond to a significant earthquake on the Hayward Fault. This analysis includes several evaluation steps, including linear dynamic analysis, non-linear static analysis, and non-linear time history analysis.
- b) Refinement and design of the structural strengthening techniques identified during the previous phase, which consists of the addition of state of the art Buckling Restrained Braced Frames, and work to strengthen the most vulnerable existing beam to column connections.
- c) Development of a site specific response spectra and actual earthquake records for use during the actual building earthquake simulations.
- d) Identification of the critical non-structural systems which must be evaluated and improved for dependable seismic performance.
- e) Extensive as-built evaluations to better understand the existing building impacts under existing conditions.
- f) Development of complete structural, architectural, mechanical, electrical and plumbing drawings required to address the rehabilitation work.
- g) Development of cost estimates.
- h) Bidding support and constructional administration services.

Project and Construction Management Selection Process: On May 2, 2008, the City distributed a Request for Proposals for construction management services on several projects including the Police Department Seismic Retrofit project. The City received proposals from ten firms, four of which were invited to interview with a panel of City staff. On June 9, 2008, City staff assembled to review presentations from Critical Solutions, Anchor Engineering, Inc., Swinerton Management and Consulting, and Zahn Group, Inc. The panel considered each firm's experience in the following areas:

- The firm's experience and specific proposed personnel
- Construction management controls and reporting
- Ability to provide owner's representative inspection services during construction, especially in the Mechanical, Electrical, and Plumbing (M-E-P) areas
- Assistance in the areas of scheduling and estimating
- Constructability reviews and value engineering experience and capabilities
- Expertise in providing master project schedule and budget updates
- Capability in post construction project closeouts / commissioning
- Familiarity with similar projects
- Ability to provide additional services as needed

After review of Critical Solutions, Inc.'s submission in response to the City's Request for Proposals, City staff determined that the company meets the qualifications for providing construction management services for the project. The panel felt that Critical Solutions, Inc., is the best fit for this project because

their team members have experience with public essential services buildings, and Police Department facilities.

Critical Solutions Scope of work (Project and Construction Management): The scope of services for the agreement includes but is not limited to the following:

- a) Constructability review once the construction documents are 70% complete.
- b) Bid assistance.
- c) Chair and manage pre-construction and weekly project meetings.
- d) Maintain master schedule and budget.
- e) Implement an electronic project control system to provide and maintain weekly status reports, requests for information (RFI) logs, submittal logs, change orders, and other related key issues/ action reports.
- f) Coordinate all construction work activities and responsibilities of the City's Project Manager, Contractor, and Architect to complete the project in accordance with the City's objectives of cost, time, and quality, and
- e) Assist with project close-out, including obtaining all Warranties, Lien Waivers and Releases.

Financing: Under the Council-adopted Capital Improvement Plan, the financing for this work will come as one of the projects to be financed using tax-exempt Certificates of Participation (COPs). COPs are long-term, tax-exempt debt instruments that have been the City's choice of financing over the past 20 years because of their flexibility and cost advantages. These debt instruments involve encumbering City assets with a long-term lease arrangement between the City and the Fremont Public Financing Authority (FPFA) (a joint powers authority of the City and the Fremont Redevelopment Agency). The lease and underlying asset secure the debt repayment. The lease payments, typically made from the General Fund subject to the City's long-term debt policy, become the source of revenues used by the FPFA (the actual issuer of the debt) to pay the COP investors.

Federal law requires an official statement of the City's intent to reimburse itself from tax-exempt bond proceeds for project expenditures. The City has traditionally made such statements by adopting resolutions of intent to debt finance. No notice of intent to debt finance is required at this time.

An official statement of intent to debt finance is not required for preliminary non-construction expenditures, such as design costs, when such expenditures are less than 20% of the total project costs. The total project cost is currently estimated at \$12.25 million and the anticipated preliminary costs to be incurred prior to letting the construction contract (the anticipated date for adopting the resolution of intent) will not exceed 20% of the total project costs. Staff will recommend a resolution stating the Council's intent to debt finance if preliminary expenditures are expected to exceed the 20% limitation, or when City Council's approval to incur construction costs occurs.

In the meantime, the project costs for this work will initially be paid from the Capital Improvement Fund (Fund 599), or such other funds as the City Council designates, until the debt-financing is obtained from the Certificates of Participation (COPs). Until permanent financing is issued, interfund loans between Funds 501 and 599 will be used (under the Council's recently adopted policy allowing the City Manager to authorize such interfund loans) to pay the interim preliminary expenses.

APPROPRIATIONS: This project is part of the current CIP adopted by City Council on June 9, 2009. The proposed agreements, in a total amount not to exceed \$1,726,376, will be funded from the Capital Improvement Debt Fund - Fund 599 using the allocation of the project appropriation to PWC8649. There is sufficient funding for the Crosby Group and Critical Solution, Inc., services for this project.

ENCLOSURES:

- [Crosby Group, Final Report Structural Evaluation & Retrofit Options, February 25, 2009, Executive Summary](#)
- [Degenkolb Engineers, Structural Peer Review, June 4, 2009](#)

RECOMMENDATIONS:

1. Authorize the City Manager, or his designee, to execute a Professional Services Agreement with the Crosby Group for design services for the Police Department Seismic Retrofit Project, PWC 8649, in an amount not to exceed \$1,231,556.
2. Authorize the City Manager, or his designee, to execute a Professional Services Agreement with Critical Solutions, Inc., for project and construction management services for the Police Department Seismic Retrofit Project, PWC 8649, in an amount not to exceed \$494,820.

7.2 CONTINUED DISCUSSION OF VISION AND FRAMEWORK FOR GENERAL PLAN 2030

Contact Person:

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PURPOSE OF THE DISCUSSION: The purpose of the discussion is to:

- 1) Present and discuss the draft outline or “Table of Contents” for General Plan 2030;
- 2) Present information and seek Council direction on identified opportunity areas in the City.

BACKGROUND: Prior to developing a draft General Plan for review by Council, City Boards and Commissions, and the community, it is important to discuss and agree on a shared vision. To that end, staff has presented information necessary to help achieve consensus through continued work sessions with the Council. At prior meetings, consensus was reached that sustainability (environmental, economic, social) should be an overarching theme of the Plan. Council also directed staff to prepare a graphically rich “Vision Book” that serves as an executive summary of the General Plan. Council also provided direction on the type of vision statement appropriate for Fremont, and the graphic representation needed to accompany it.

The Work Session on June 23 will involve a discussion about the General Plan “Table of Contents”. The Session will also include discussion about three opportunity areas: Mowry East area, properties at the terminus of Shinn Street and the Grimmer Boulevard corridor. Property owners have been notified.

REQUESTED OUTCOMES:

1. Receive presentation.
2. Receive public comment.
3. Provide general direction to staff.

ENCLOSURES:

- [Draft Table of Contents](#)
- [Opportunity Areas Diagram](#)

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS	California Public Employees' Retirement System	MTC	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD	Community Development Department	NLC	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG	Compressed Natural Gas	PWC	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC	California State Association of Counties	RFQ	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP	Regional Occupational Program
DEIR	Draft Environmental Impact Report	RRIDRO	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR	Environmental Impact Report (CEQA)	TCRDF	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA	Federal Emergency Management Agency	USD	Union Sanitary District
FFD	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC	Fremont Municipal Code	WMA	Waste Management Authority
FPD	Fremont Police Department	ZTA	Zoning Text Amendment
FRC	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
June 30, 2009 (5 th Tuesday)		No Meeting		
July 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 21, 2009	TBD	Work Session	Council Chambers	Live
July 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
August		Council Recess		
September 1, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 8, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 15, 2009	TBD	Work Session	Council Chambers	Live
September 22, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 5, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
October 6, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 13, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 20, 2009	TBD	Work Session	Council Chambers	Live
October 27, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 17, 2009	7:00 p.m.	Work Session	Council Chambers	Live
November 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live